

Message

From: Charney, Lauren [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4B94BFC86D4E4CCDB9340EBBD09F2B11-CHARNEY, LAUREN]
Sent: 9/15/2015 5:15:15 PM
To: David W. Nunn [dwnunn@eastmansmith.com]; Kevin Murphy [kmurphy@wladislawfirm.com]
CC: Doyle, James [doyle.james@epa.gov]
Subject: changes to paragraph 66

David and Kevin,

Below is the revised language we propose for paragraph 66 of the AOC. Talk to you at 2:30.

1. Respondents shall be responsible for funding all of their obligations under this AOC, including performance of the Work and reimbursement of Future Response Costs. Upon entry of a judicially-approved consent decree that embodies an obligation by one or more of Respondents to implement the Remedial Action for the Lower Ley Creek OU, those Respondents that are settlors in any such consent decree may submit a joint request, as appropriate, for reimbursement of the RD costs incurred in performance of the Work under this AOC for those Respondents' portion of the RD costs. The reimbursed funds shall be used for advanced funding from the Special Account of the Remedial Action, pursuant to the terms of any such judicially-approved settlement. Any such request for reimbursement shall be accompanied by a description of the work the requesting Respondents performed related to the RD for which reimbursement is sought and a detailed, itemized accounting of their costs incurred in performing the Work under this AOC. The basis for and the amount of reimbursement to the Respondents will be dependent on (a) the availability of funds in the Special Account, (b) the Work's consistency with the NCP, which EPA agrees can be demonstrated by EPA's written approval of the Work, (c) EPA's acceptance of the cost documentation described in the cost accounting documentation, subject to dispute resolution, (d) EPA's reimbursement of its past response costs incurred at the Lower Ley Creek OU from the Special Account, and (e) the pre-condition of the participation of one or more of the Respondents to this AOC in any such future, judicially-approved settlement to implement the Remedial Action selected for the Lower Ley Creek OU.

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